



House of Representatives

File No. 832

General Assembly

January Session, 2011

(Reprint of File No. 238)

Substitute House Bill No. 5802
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 23, 2011

AN ACT ADOPTING CERTAIN SAFETY RECOMMENDATIONS OF THE THOMAS COMMISSION.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) No person shall use
2 flammable gas to clean or blow the gas piping of an electric generating
3 facility.

4 (b) The Connecticut Siting Council shall not issue a certificate to
5 build a facility described in subdivision (3) of subsection (a) of section
6 16-50i of the general statutes unless a person applying for such
7 certificate demonstrates to the satisfaction of the council that such
8 person has:

9 (1) Retained, for the duration of the construction project, at least one
10 special inspector to assist the municipal fire marshal in reviewing
11 construction plans and conducting inspections during construction of
12 the electric generating facility to ensure compliance with the
13 recommended standards; and

14 (2) Paid a fee to be established in accordance with subsection (d) of
15 section 29-251c of the general statutes to be used in the training of local
16 fire marshals on the complex issues of electric generating facility
17 construction. Said fee shall be deposited in the Code Training Fund
18 established in section 29-251c of the general statutes.

19 (c) The special inspector retained under subsection (b) of this section
20 shall have the following duties:

21 (1) To assist the local fire marshal in said fire marshal's review and
22 approval of methods for cleaning the interior of gas piping;

23 (2) To approve an appropriate safety plan for any nonflammable gas
24 blows conducted at the electric generating facility;

25 (3) To observe the actual cleaning procedure in order to assure
26 compliance with the approved methods for cleaning the interior of gas
27 piping; and

28 (4) To conduct inspections during construction of such facility in
29 order to ensure compliance with the approved methods and with the
30 provisions of this section.

31 (d) Any person designated as a special inspector for purposes of this
32 section shall:

33 (1) Be approved by the Connecticut Siting Council and not
34 otherwise employed or financially involved in the construction or
35 operation of the electric generating facility; and

36 (2) Be a licensed professional mechanical engineer pursuant to
37 chapter 391 of the general statutes, or a person holding a commission
38 from the National Board of Pressure Vessel Inspectors and have
39 knowledge and field experience in electric generating facility
40 construction.

41 (e) Any person who violates any provision of subsection (a) or (b) of
42 this section shall be fined not more than one hundred thousand dollars

43 or imprisoned not more than two years or both for each offense.

44 Sec. 2. Subsection (h) of section 16-50j of the general statutes is
45 repealed and the following is substituted in lieu thereof (*Effective from*
46 *passage*):

47 (h) Prior to commencing any hearing pursuant to section 16-50m,
48 the council shall consult with and solicit written comments from (1) the
49 Department of Environmental Protection, the Department of Public
50 Health, the Council on Environmental Quality, the Department of
51 Agriculture, the Department of Public Utility Control, the Office of
52 Policy and Management, the Department of Economic and
53 Community Development and the Department of Transportation, and
54 (2) in a hearing pursuant to section 16-50m, for a facility described in
55 subdivision (3) of subsection (a) of section 16-50i, the Department of
56 Emergency Management and Homeland Security, the Department of
57 Public Safety, the Department of Consumer Protection and the
58 Department of Public Works and the Labor Department. In addition,
59 the Department of Environmental Protection shall have the continuing
60 responsibility to investigate and report to the council on all
61 applications which prior to October 1, 1973, were within the
62 jurisdiction of said Department of Environmental Protection with
63 respect to the granting of a permit. Copies of such comments shall be
64 made available to all parties prior to the commencement of the
65 hearing. Subsequent to the commencement of the hearing, said
66 departments and council may file additional written comments with
67 the council within such period of time as the council designates. All
68 such written comments shall be made part of the record provided by
69 section 16-50o. Said departments and council shall not enter any
70 contract or agreement with any party to the proceedings or hearings
71 described in this section or section 16-50p, that requires said
72 departments or council to withhold or retract comments, refrain from
73 participating in or withdraw from said proceedings or hearings.

74 Sec. 3. (NEW) (*Effective from passage*) At least once during the period
75 of construction of an electric generating facility in this state, the

76 Connecticut Siting Council and the Departments of Public Safety,
77 Emergency Management and Homeland Security, Consumer
78 Protection and Public Works, and the Labor Department shall conduct
79 a meeting to discuss and develop proposed resolutions for any known
80 or potential safety issue at such facility. The council and said
81 departments shall submit any such proposed resolutions to the special
82 inspector provided for such facility, as required pursuant to section 1
83 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	16-50j(h)
Sec. 3	<i>from passage</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Judicial Dept.	GF - Potential Revenue Gain	Less than 500,000	Less than 500,000
Correction, Dept.	GF - Potential Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires the Connecticut Siting Council (CSC) to meet with and receive comments from specified state agencies when considering applications to build power plants. This has no fiscal impact on the CSC or the other various agencies.

The bill establishes a fine for the use of flammable gas to clean gas piping at a natural gas facility of up to \$100,000 and/or imprisonment of no more than two years, which will result in a potential revenue gain of less than \$500,000 to the General Fund. The estimate assumes that the establishment of a fine and/or imprisonment for this offense will increase the likelihood that an estimated 10 offenders annually would be prosecuted and receive harsher penalties than under current law.¹

To the extent that these changes increase the likelihood that offenders would be prosecuted or receive harsher penalties than currently provided for, potential cost for incarceration and/or probation supervision in the community would result. On average, it

costs the state \$3,785 to supervise an offender on probation in the community as compared to \$48,545 to incarcerate the offender.

The bill also results in a revenue gain to the Code Training Fund under the Department of Public Safety. The actual revenue gain can not be determined because the bill does not specify a fee amount.

House "A" increased the fine from \$1,000 to up to \$100,000 and increased the imprisonment from six months to up to two years. The amendment also made additional technical and clarifying changes that do not result in a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ In 2010, zero convictions were made for this offense, as it was not specified in statute as a fine and/or term of imprisonment.

OLR Bill Analysis**sHB 5802 (as amended by House "A")******AN ACT ADOPTING CERTAIN SAFETY RECOMMENDATIONS OF THE THOMAS COMMISSION.*****SUMMARY:**

This bill codifies Executive Order No. 45 (issued by then Governor Rell), which prohibits anyone from using flammable gas to clean or blow an electric generating facility's (power plant) gas piping. It prohibits the Connecticut Siting Council from issuing a certificate to build a power plant unless the applicant demonstrates, to the council's satisfaction, that he or she (1) has retained, for the project's duration, at least one special inspector to help the local fire marshal review construction plans and inspect the facility during construction and (2) paid a fee the bill establishes to be used to help train local fire marshals in power plant construction issues.

The bill subjects to a fine of up to \$100,000, imprisonment for up to two years, or both, for each offense, anyone who (1) uses flammable gas to clean or blow a power plant's gas piping or (2) obtains a power plant building certificate and fails to retain the required special inspector or pay the fire marshal training fee.

The bill requires the Siting Council to meet with and solicit comments from specified state agencies when considering applications to build power plants. It requires that at least once during construction, the council and some of the agencies meet to discuss any known or potential safety issue at the power plant and submit any proposed resolutions to the project's special inspector.

*House Amendment "A" (1) prohibits anyone from using flammable gas to clean or blow a facility's gas piping, not just people

operating or constructing the facility as under the original bill; (2) increases the fine for violations from \$1,000 to \$100,000 and the prison term from six months to two years; (3) explicitly prohibits the Siting Council from issuing a permit to construct a facility to anyone who does not meet criteria; (4) specifies how the fire marshal training fee must be determined; (5) specifies that the special inspector must be retained for the duration of a project; (6) drops the requirement that the inspector be commissioned by the American Society of Mechanical Engineers or have specified equivalent experience; and (7) makes technical changes.

EFFECTIVE DATE: Upon passage

SPECIAL INSPECTORS

Requirement to Retain Special Inspector

The bill requires anyone applying to the Connecticut Siting Council for a certificate to build an electric generation or storage facility to:

1. retain at least one special inspector to help the local fire marshal review construction plans and inspect the facility during construction to ensure compliance with recommended standards and
2. pay a fee to be used to help train local fire marshals on the complex issues of power plant construction.

The bill requires the fee to be (1) established in accordance with CGS § 29-251c and (2) deposited in the “code training fund.” (The section cited does not specify a process for establishing fees. Rather, it requires the public safety commissioner to adopt regulations to establish an administrative process to adjust (1) fees assessed under two other statutes and (2) the portion of the fees that a municipal building department may retain for administrative cost (see BACKGROUND)).

Special Inspector’s Duties

The special inspector must:

1. help the local fire marshal in his or her review and approval of cleaning methods for interior gas piping,
2. approve an appropriate safety plan for nonflammable gas blows conducted at the facility,
3. observe cleaning procedures to ensure compliance with the approved methods for cleaning interior gas piping, and
4. inspect the facility during construction to ensure compliance with the approved cleaning methods and with the bill.

Qualifications of Special Inspector for Electric Generating Facility

Anyone designated as a special inspector must:

1. be approved by the Siting Council and not be otherwise employed or financially involved in the facility's construction or operation and
2. be licensed in Connecticut as a professional mechanical engineer or hold a commission from the National Board of Pressure Vessel Inspectors and have knowledge of and field experience in power plant construction.

HEARINGS

Power Plant Application

Before commencing any hearing on a power plant application, the bill requires the Siting Council to consult with and solicit written comments from the Council on Environmental Quality; the Office of Policy and Management; and the departments of Agriculture, Consumer Protection, Economic and Community Development, Emergency Management and Homeland Security, Environmental Protection, Labor, Public Health, Public Works, Public Safety, Public Utility Control, and Transportation.

Meetings During Construction of Power Plants

The bill requires that at least once during construction of a power

plant, the council and specified departments meet to discuss any known or potential safety issue at the facility and submit any proposed resolutions to special inspector. The departments are Emergency Management and Homeland Security, Public Safety, Consumer Protection, Public Works, and Labor.

BACKGROUND

Connecticut Siting Council

This council has exclusive jurisdiction over most power plants. The exceptions are:

1. emergency generators and
2. a generation facility that is:
 - (a) owned and operated by a private power producer (certain non-utility generators),
 - (b) a qualifying small power production facility or a qualifying cogeneration facility under the federal Public Utility Regulatory Policies Act (i.e., a facility that uses renewable energy or simultaneously produces electricity and useful heat) or a facility the council determines to be primarily for a producer's own use, and
 - (c) a renewable energy facility with a generating capacity of 1 MW or less or a cogeneration facility with a capacity of 25 MW or less (CGS § 16-50i(a)).

In most cases, a developer must obtain a certificate of environmental compatibility and public need from the council before beginning work on a power plant (CGS § 16-50k(a)). But, the council must approve certain generating facilities by declaratory ruling, an alternative process. These include various generation facilities with a capacity of 65 MW or less.

Fire Marshal Training Fees

The law requires the state building inspector and local building officials, as applicable, to assess an education fee on state and local building permit applications (CGS §§ 29-252a(b)(2) and 29-263(b)). The fee is 16 cents per \$1,000 of construction value as declared on the permit application, but may be adjusted downward or upward as the law specifies. The fees go into the state's General Fund and are credited to the Department of Public Safety appropriation for building and fire safety code training and education programs, except for a small percentage retained by towns for administrative expenses.

Related Bill

HB 1142 (File 459), reported by the Energy and Technology Committee, among other things:

1. makes DPUC responsible for coordinating safety programs related to the construction and operation of power plants,
2. bars the Siting Council from approving a gas-fired power plant unless it finds that the plant will not jeopardize nearby residents and property,
3. gives the Department of Public Utility Control (DPUC) responsibility for coordinating state safety programs that relate to the safe operation of power plants,
4. requires any state agency responsible for a program that relates to the safe operation of a power plant to coordinate its programs with DPUC, and
5. authorizes DPUC's gas pipeline safety unit to ensure that natural gas is used safely at any power plant that uses this fuel.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute

Yea 24 Nay 0 (03/08/2011)

Labor and Public Employees Committee

Joint Favorable

Yea 10 Nay 0 (04/12/2011)

Judiciary Committee

Joint Favorable

Yea 36 Nay 0 (04/26/2011)

Energy and Technology Committee

Joint Favorable

Yea 19 Nay 0 (05/10/2011)